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Commerce and Industry Association of New York

Urging immediate passage of the Webb bill (H.R. 17...

[New York]

[1917]

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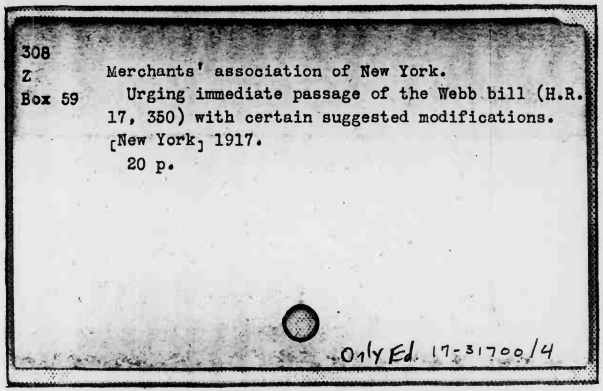


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# The Merchants' Association of New York

URGING IMMEDIATE PASSAGE OF THE WEBB BILL (H. R. 17,350) WITH CERTAIN SUGGESTED MODIFICATIONS.

January, 1917

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January, 1917

## RESOLUTIONS.

The Board of Directors of The Merchants' Association of New York, at a meeting held January 11, 1917, received and, by a unanimous vote, approved the following report on the Webb Bill (H.R. 17,350), submitted by The Association's Committee on Federal Trade Commission; and adopted the following preambles and resolutions in relation thereto:

WHEREAS, the Webb Bill "to promote export trade, and for other purposes" (H.R. 17,350), now pending in the Senate of the United States will, when modified in the respects suggested in the accompanying report, permit co-operative action in the American export trade under safeguards that will adequately protect the American public and every individual American exporter, producer and consumer; and

WHEREAS, the Webb Bill, when so modified, will accord with, and respond to the recommendations of the President and of the Federal Trade Commission and of the Chamber of Commerce of the United States and of many trade and commercial organizations, including our own, which have strongly urged such legislation; and

WHEREAS, the Webb Bill, with the modifications suggested in the accompanying report, will fulfill the purposes expressed by these officials and unofficial bodies in respect of American export trade, and by removing the handicaps now imposed by American anti-trust laws upon American export trade will permit American exporters to utilize the advantages of co-operative action in selling the products of American labor against the competition of foreign combinations in the markets of the world;

Now, therefore, be it

*Resolved*, that The Merchants' Association of New York, having upwards of five thousand members drawn from every branch of the commercial, industrial, professional and civic life of New York City, and through its membership representing many



thousands of American employers and employees whose welfare depends upon the success of American export trade, renews its endorsement of the Webb Bill, with the modifications of detail suggested in the resolution unanimously adopted by its Executive Committee at a meeting held July 17, 1916, and hereby adopts the accompanying report upon the Webb Bill, and heartily endorses the Bill with the modifications suggested in the accompanying report, and strongly urges upon the President and upon the Congressional Committees having the Bill in charge and upon the members of both branches of Congress the importance of promptly passing the Bill with these modifications, and be it further

*Resolved*, that copies of this resolution and the accompanying report be sent to the President of the United States, to the members of both branches of Congress, and to the various trade and commercial organizations with which we are affiliated or in correspondence, and that they be respectfully requested to urge as earnestly as possible the prompt passage of the Webb Bill with these modifications of detail.

THE MERCHANTS' ASSOCIATION OF NEW YORK,
By S. C. MEAD, *Secretary*.

## REPORT OF THE COMMITTEE.

January 10, 1917.

*To the Board of Directors of*
*The Merchants' Association of New York.*

GENTLEMEN:—

The Webb Bill "to promote export trade, and for other purposes," which was introduced in Congress as H. R. 16,707 on June 28, 1916, by Chairman Webb of the House Judiciary Committee, was made the subject of a report by the Committee on Federal Trade Commission of The Merchants' Association of New York, which report was approved by unanimous vote of the Executive Committee of The Association at a meeting held July 17, 1916. The Association thereby endorsed the Webb Bill with the modifications of detail suggested in the report above mentioned, and adopted preambles and resolutions urging upon the President, the Congressional Committees having the bill in charge, and the members of both branches of Congress the importance of promptly passing the bill with those modifications.

On August 8, 1916, the Webb Bill was re-introduced as H. R. 17,350, containing the modifications that had been urged by The Association. On August 15, 1916, the Bill was favorably reported by the House Judiciary Committee to the House of Representatives, and on September 2, 1916, it was passed with several amendments by the House, and is now pending in the Senate. The Federal Trade Commission, meanwhile, has published a report of nearly a thousand pages on "Co-operation in the American Export Trade," in which the Commission has fully set forth the overwhelming economic and legal arguments in favor of such legislation. In its Annual Report, dated November 15, 1916, the Commission has called attention to two amendments, adopted while the bill was being passed in the House, which amendments, the Commission has stated, might "entirely nullify" the purpose of the bill. And in his Annual Address



to Congress on December 5, 1916, the President has urged that this legislation be promptly passed because, as he has stated, "the opportunity is here and may escape us if we hesitate or delay."

In the light of these developments, the Association's Committee on Federal Trade Commission has continued its study of the Webb Bill (H.R. 17,350) in the form in which it passed the House of Representatives and is now pending in the Senate; and as the result of its study, the Committee recommends that the Association endorse the bill with the modifications hereinafter suggested, and that it adopt preambles and resolutions hereto appended, urging upon the President, the Congressional Committees having the bill in charge, and the members of both branches of Congress the importance of promptly passing the bill with these modifications.

## GIST OF THE WEBB BILL.

The Webb Bill (H.R. 17,350), as reported by the House Judiciary Committee to the House of Representatives, provides that nothing in the Sherman Anti-Trust Act "shall be construed as declaring to be illegal an association entered into for the sole purpose of engaging in export trade and actually engaged solely in such trade, or an agreement made, or act done, in the course of export trade by such association, provided such agreement or act is not in restraint of trade within the United States." (Section 2)

"Association," as here used, was defined as "any corporation or combination, by contract or otherwise, of two or more persons, partnerships, or corporations." (Section 1)

These provisions, with the provision that "export trade "shall mean "solely trade or commerce in goods, wares, or merchandise exported, or in the course of being exported from the United States or any Territory thereof to any foreign nation; but . . . shall not be deemed to include the production or manufacture, within the United States or any Territory thereof of such goods,

wares or merchandise or any act in the course of such production or manufacture" (Section 1), carefully limited the operation of the Webb Bill to transactions that were solely in the course of *export* trade, and effectually excluded from the benefits of the bill any transactions that in any wise were in the course of production, manufacture, or trade *within* the United States.

Sections 1 and 2 above quoted were, however, unfortunately amended in the course of passage through the House of Representatives by inserting in Section 1, before the words "within the United States" above quoted, the words "trading in, or marketing," and by inserting in Section 2, after the words, "within the United States" above quoted, the words, "and does not restrain the export trade of the United States." That these amendments "entirely nullify" the purpose of the Webb Bill is stated by the Federal Trade Commission in its Annual Report, dated November 15, 1916, hereinafter quoted.

To accomplish any of the purposes of the Webb Bill, therefore, the two amendments above criticised must be dropped and the bill, in these particulars at least, must be restored to its form as reported by the House Judiciary Committee to the House of Representatives, which has been outlined above.

If the two amendments above criticised be dropped from the bill, it will be possible for any concern desiring to enter the American export trade to obtain the benefits of the bill, either by incorporating *singly* a *subsidiary* corporation for the sole purpose of carrying on export trade, or by *joining with other concerns* and taking stock or membership in a *corporation or unincorporated association* organized for the sole purpose of carrying on export trade. To facilitate the ownership by corporations of stock or capital of any such incorporated or unincorporated "associations," it is further provided that Section 7 of the Clayton Act, restricting inter-corporate stock ownership under certain conditions, shall have no application to such "associations" unless the effect of such acquisition or ownership may be to restrain trade or substantially lessen competition *within* the United States (Section 3).

Every such "association" is required forthwith to file with the



Federal Trade Commission a statement of its place of business, the names and addresses of its officers, stockholders or members, and copies of its certificate of incorporation or articles of association, as the case may be, and a statement of "all contracts, agreements, and understandings had with any foreign or domestic association in regard to the conduct of or practices in foreign trade."

The procedure for the prevention of "unfair methods of competition" now contained in the Federal Trade Commission Act is extended to "unfair methods of competition used in export trade *against competitors engaged in export trade*, even though the acts constituting such unfair methods are done without the territorial jurisdiction of the United States." This absolutely insures fair treatment to every concern in the American export trade with which the "association" competes; and it will be observed, by referring to the definition of "export trade" above set forth, that by limiting the protection to concerns in "export trade," complaints under this Section can be lodged only by concerns that are exporting *from the United States* to a foreign country.

## STRONGLY URGED BY THE PRESIDENT.

The necessity for immediate legislation of this character is fully recognized by the Administration. In his brief Annual Address to Congress on December 5, 1916, President Wilson singled out the Webb Bill for particular mention in the following passage:

"Three matters of capital importance await the action of the Senate which have already been acted upon by the House of Representatives: the bill which seeks to extend greater freedom of combination to those engaged in promoting the foreign commerce of the country than is now thought by some to be legal under the terms of the laws against monopoly. . . .

"I shall not argue at length the desirability of giving a freer hand in the matter of combined and concerted effort to those

who shall undertake the essential enterprise of building up our export trade. That enterprise will presently, will immediately assume, has indeed already assumed, a magnitude unprecedented in our experience. We have not the necessary instrumentalities for its prosecution; it is deemed to be doubtful whether they could be created upon an adequate scale under our present laws. We should clear away all legal obstacles and create a basis of undoubted law for it which will give freedom without permitting unregulated license. The thing must be done now, because the opportunity is here and may escape us if we hesitate or delay."

## ENDORSED BY THE TRADE COMMISSION.

Summarizing in a letter to the Senate the results of its investigation of competitive conditions affecting Americans in international trade, the Federal Trade Commission on May 2, 1916, declared that "other nations enjoy marked advantages in foreign trade from superior facilities and more effective organizations," and that "doubt and fear as to legal restrictions prevent Americans from developing equally effective organizations for overseas business and that the foreign trade of our manufacturers and producers, particularly the smaller concerns, suffers in consequence." Moved by these considerations, the Commission earnestly recommended "the immediate clarification of the law to permit co-operation among Americans for export trade." In conclusion, the Commission impressively stated: "The Commission feels that it would fail of its duty if it did not urge the pressing need of such action immediately. If American business men are to make the most of the great opportunities now before them, are to build securely in foreign trade, and are to avoid disaster in the shock of the stern and determined competition that will doubtless follow the war, they must at once perfect the organization demanded by the conditions of international trade."

Since sending this letter to the Senate, the Commission has published in a report of nearly a thousand pages entitled, "Report on Co-operation in American Export Trade," the information it



has collected on this subject from special reports for the Commission from the United States Consuls, from public hearings by the Commission, from research by the Commission in published material, from inquiry cards and formal schedules sent to more than 25,000 American business and professional men, and from investigations in this country and abroad by the Commission's field agents. The final recommendations of the Commission, based on this extraordinarily comprehensive study, emphatically endorse the principle of the Webb Bill: "The Commission believes," says the report, "that American exporters should be enabled to compete in foreign markets on more nearly equal terms with foreign competitors. It also believes that the smaller manufacturers and producers, so far as they desire, should be enabled to share in such foreign business. It is convinced that for these purposes co-operation in export trade should be permitted. It knows that doubt as to the application of the anti-trust laws now prevents any marked development of such co-operation. It does not believe that Congress intended by the anti-trust laws to prevent Americans from co-operating in export trade for the purpose of competing effectively with foreigners where such co-operation does not restrain trade within the United States and where no effort is made to hinder American competitors from freely engaging in export trade. It is not reasonable to suppose that Congress meant to obstruct the development of foreign commerce by forbidding the use in export trade of methods of organization which do not operate to the prejudice of the American public, which are lawful in the countries where the trade is to be carried on, and which are necessary if greater equality of opportunity is to be afforded Americans in meeting foreign competitors. The Commission, therefore, respectfully recommends that Congress enact declaratory and permissive legislation to remove the present doubt as to the law and to establish clearly the legality of such co-operation.

"The Commission is confident that the enactment of such legislation as that outlined above will permit the development of the co-operative organization which must take place if the manufacturers and producers of the United States are to compete with

foreigners on more equal terms in export trade. It is also confident that this essential development can be obtained without harmful effects on the domestic market and without prejudice to the interests of American concerns which conduct their export business outside of any combination."

## FOREIGN TRADE NEEDS DIFFERENT LAWS.

Laws which are fair and even, when enforced in domestic commerce against all competitors, become unfair, uneven and well-nigh intolerable in foreign commerce, where they necessarily cannot be enforced against combinations of foreign competitors and foreign consumers, and can only be enforced against American exporters.

Throughout the markets of the world, our competitors are being encouraged by their Governments to unite in highly organized combinations. Overwhelming proofs of the advantages enjoyed by foreign exporters, by foreign combinations competing with American exporters, and by foreign buying combinations which depress American export prices, and of the resulting sacrifice of our natural resources, have been published by the Commission. Meanwhile our anti-trust laws, though powerless to forbid any foreign combinations against us, nevertheless purport to regulate our entire foreign commerce, and apparently deny to our exporters every advantage of co-operative action to meet the conditions of foreign trade.

How different legislating for foreign commerce is from legislating for domestic commerce has been appreciated by Congress. The Clayton Act, prohibiting certain kinds of price discriminations and tying-contracts, scrupulously excluded from the operation of these provisions the foreign trade of the United States. Our national banks have recently been permitted to co-operate in the conduct of banking business in foreign countries. Steamship lines in foreign trade, also, are now permitted, under the supervision of the Shipping Board, to form combinations without violating the laws against restraint of trade and monopolies. These are each clear recognition of the fact that prohibitions in-



tended for the protection of our own citizens should not be extended to our foreign trade; and that if such practices, when carried on in foreign trade, should adversely affect our foreign trade, the laws governing our domestic trade are adequate to deal with the situation.

## SAFEGUARDS AGAINST ABUSE OF CO-OPERATIVE ACTION.

"Two chief dangers," declared the Federal Trade Commission in its letter to the Senate, "from co-operative export organizations of American manufacturers and producers are apparent. They may be used to exploit the home market and they may be used unfairly against individual American exporters in foreign trade. The dangers in co-operative action must be faced frankly and provided against fully.

"The Commission is confident that this can be done without sacrificing the essential advantages of joint action and without altering the policy of the anti-trust laws or interfering with their enforcement. This specific extension of the law prohibiting unfair methods of competition to export trade and requirement of full reports to the Federal Trade Commission from cooperative export organizations will protect the individual exporter, while the enforcement of the anti-trust laws will prevent the use of such organizations to effect restraint of trade or monopoly in the domestic market."

The Webb Bill completely satisfies these requirements of the Commission. Co-operative action under the provisions of the bill cannot possibly be abused. Everything tending to restrain trade within the United States is expressly left subject to the Sherman Act. Only "associations" specially organized to engage exclusively in the export trade can enjoy the provisions of the bill. Full information regarding all such "associations" will always be in the possession of the Federal Trade Commission. Americans competing in the export trade against such "associations" are expressly protected against all unfair methods of competition. Greater protection to the public and to individual American competitors of such "associations" cannot be asked.

## RECOMMENDED BY THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA.

Legislation for the relief of the export trade has been repeatedly recommended by the Chamber of Commerce of the United States of America.

On March 31, 1914, the Special Committee on Trust Legislation, appointed by the Chamber, recommended "that Congress should direct the commission to investigate and report to Congress at the earliest practicable date on the advisability of amending the Sherman Act to allow a greater degree of co-operation in the conduct, and for the protection, of the foreign trade."

Upon a referendum on April 14, 1914, of this recommendation to the vote of the constituent organizations of the Chamber of Commerce of the United States of America, this particular recommendation received 538 votes in favor as against only 67 opposed.

Following this referendum the act creating the Federal Trade Commission became law, in which the Commission was empowered to investigate "trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States, and to report to Congress thereon with such recommendations as it deems advisable." By this time the European war had increased the need of legislation of this character; and on December 1, 1914, the Special Committee of the Chamber submitted another report to the Chamber recommending "that the Chamber take steps to promote the passage of a bill embodying what is obviously the desire of an overwhelming majority of the constituent members of the Chamber, as indicated in the referendum vote above referred to.

"The principles to be embodied in such a bill should, in the judgment of your Committee, be as follows:

"First.—All combinations entered into or carried on in good faith for the sole purpose of increasing, facilitating or benefiting EXPORT TRADE, including agreements, transactions and acts entered into, performed or carried out in the course of Export Trade, which do not restrain or monopolize or tend to restrain or monopolize trade within the United States shall be lawful.



"Second.—The term 'Export Trade' shall be confined to trade or commerce from the United States to any foreign nation; and the term 'foreign nation' should not include any of the insular possessions of the United States.

"Third.—That the Federal Trade Commission should be given the same power with reference to organizations, associations, agreements, transactions or acts entered into, performed or carried out in the course of Export Trade which it has reason to believe restrains or monopolizes or tends to restrain or monopolize trade within the United States, as it has under the Federal Trade Commission Act in the matter of unfair methods of competition.

"Fourth.—That none of the powers conferred upon the Federal Trade Commission in the Act entitled 'An Act to create a Federal Trade Commission,' etc., should be in any way abridged in such a bill."

In its report submitting these recommendations to the Chamber, the Committee advanced the following arguments, which are entirely applicable to the Webb Bill:

"In domestic interstate trade a combination of buyers as well as a combination of sellers can be reached by the laws of the United States. In the foreign trade, however, a combination of buyers beyond the reach of control by the United States may practically dictate the prices at which American goods may be sold in foreign markets, in the absence of authority to American manufacturers and exporters to co-operate to maintain prices abroad.

"In foreign markets, moreover, American manufacturers have often to compete with foreign manufacturers, who in many instances not only have sanction of local law for acting in co-operation with other members of their industry, but in effect receive subsidies from their governments when they sell outside their own countries. . . .

"In considering the points of opposition which may arise to the plan for amendment of the anti-trust laws here embodied your Committee desires to lay emphasis on the purposes of these laws, which were fundamentally to protect both the American consumer and the independent American manufacturer from possible oppres-

sion by the large combination or monopoly. It was not within these purposes, and it would not be sound and economically advisable even from a moral standpoint, for this government to assume to protect consumers and producers in other countries, where other conditions prevail and where governments exist with full power to act for the benefit of their own citizens, from any results, baleful or otherwise, of business combination in the United States. The sole grounds of opposition will arise from fear that through permission to combine for export trade some injury may result to American consumers and the smaller American manufacturers.

"This fear is, in the opinion of your Committee, not well grounded. The principles of new legislation recommended in this report make clear, on the one hand, that the Federal Trade Commission shall have power to restrain and prevent action by combinations in foreign trade which react as an undue restraint upon internal commerce, while, on the other, they specifically provide that the provisions of the Federal Trade Commission Act which permit the Commission to restrain and prevent unfair methods of competition (embodied in Section 5 of the Act) shall have full application to the Foreign Trade."

This report of the Special Committee of the Chamber was accepted and approved by the Chamber at its annual meeting in Washington in February, 1915.

The Webb Bill, in principle, fully responds to all the considerations discussed in this report of the Chamber of Commerce of the United States of America, and fully accords with the recommendations of the Chamber.

## MODIFICATIONS NECESSARY IN THE BILL.

The Webb Bill, as reported by the House Judiciary Committee to the House of Representatives, provided that nothing in the Sherman Antitrust Act "shall be construed as declaring to be illegal an association entered into for the sole purpose of engaging in export trade and actually engaged solely in such trade, or an agreement made, or act done, in the course of export trade



by such association, provided such agreement or act is not in restraint of trade within the United States" (Section 2). And "export trade" was defined to mean "solely trade or commerce in goods, wares, or merchandise exported, or in the course of being exported from the United States or any Territory thereof to any foreign nation; but . . . not be deemed to include the production or manufacture within the United States or any Territory thereof of such goods, wares, or merchandise, or any act in the course of such production or manufacture" (Section 1).

Sections 1 and 2 above quoted were, however, unfortunately amended in the course of passage through the House of Representatives; and these amendments are wholly disastrous to the purpose of the Bill. That these amendments, unless corrected, will "entirely nullify" the purpose of the bill is emphatically stated by the Federal Trade Commission in its Annual Report, dated November 15, 1916, in which the Commission says (pp. 35-36): "Particular attention, however, is called to the fact that though the bill as originally reported to the House appears, in the opinion of the Commission, to effectively meet the purpose for which it was drafted, yet, on the other hand, two amendments were made to the bill during the debate which seem to give a basis for legal construction which might entirely nullify this purpose. The first amendment referred to was made in the first section of the bill. In order to permit co-operation only with respect to export trade, the term 'export trade' was originally carefully defined to exclude the production or manufacture of goods within the United States, but the amendment made it also exclude 'trading in or marketing' such goods within the United States. . . . Obviously a successful co-operative export organization would, in most cases, be obliged to purchase goods in the United States and therefore to trade in them. The second amendment referred to is found in the second section. This originally granted the right of co-operative association for export trade, provided such association did not involve 'restraint of trade within the United States.' But the amendment added a further proviso, namely, 'and does not restrain the export trade of the United States'. . . . The Commission is of the opinion that these provisions

of the bill would not change the present law. But the very purpose of the bill was to clarify the law, while this amendment presents the same question of construction as the existing law. The law, therefore, would be neither changed nor clarified if the bill were enacted in the form in which it was passed by the House. Therefore, the business man who is deterred from engaging in co-operative action in export trade by fear or doubt concerning antitrust laws would be left in exactly the same position as before."

To accomplish any of the purposes of the Webb Bill, therefore, the two amendments above criticised should be dropped, and the bill, in these particulars at least, should be restored to its form as reported by the House Judiciary Committee to the House of Representatives, which form has been outlined above.

Every "association" organized under the Webb Bill is required forthwith to file with the Federal Trade Commission a statement of its place of business, the names and addresses of its officers, stockholders or members, and copies of its certificate of incorporation or articles of association, as the case may be, and a statement of "all contracts, agreements and understandings had with any foreign or domestic association in regard to the conduct of or practices in foreign trade."

The Federal Trade Commission particularly recommended "that as a condition precedent to enjoying the benefit of such legislation every such co-operative organization be required, under penalty, to file promptly with the Federal Trade Commission a written statement setting forth the essential facts concerning its organization, such as name, location of its offices and places of business, names and addresses of its officers and stockholders or members, and a copy of its articles of incorporation and by-laws, if incorporated, or a copy of its articles of contract or association, if unincorporated. The Commission has the authority now to require such reports, but it should not be burdened with the work of discovering such organizations and requesting information from them. The burden of furnishing the required facts as to their organization should rest upon those who expect to enjoy the benefit of this law." (Report on



Co-operation in American Export Trade, Vol. 1, p. 380). But the Commission did not recommend, and its reasons above quoted would hardly support, the requirements that the "association," regardless of whether the Commission needs the information or not, shall file with the Commission "all contracts, agreements, understandings had with any foreign or domestic association in regard to the conduct of or practices in foreign trade." It would seem, therefore, better to omit the words above quoted, and to insert in place thereof language adapted from Section 6, subdivision b, of the Federal Trade Commission Act, viz.: "such other information as the Federal Trade Commission may require of the association making such statement as to its organization, business, conduct, practices, management and relation to other foreign or domestic association." Indeed, the Federal Trade Commission itself seems to be of this opinion, for in its report directly after the passage above quoted, in which the Commission recommends the filing of the statement of the association's place of business, the names and addresses of its officers, stockholders and members, and copies of its certificate of incorporation or articles of association, the Commission says (p. 380): "Having these facts before it, the Commission could then use the power it already has to require other reports in such detail as may be necessary to inform it fully of the activities of such co-operative bodies and to place it in a position to take such action as the public interest might require."

## PROMPT PASSAGE IMPERATIVE.

Legislative action is immediately necessary.

Several months before the outbreak of the European War, a high authority addressing the National Foreign Trade Convention in Washington submitted figures abundantly supporting his statement that because of legal impediments suffered by American producers in coping with combinations of foreign buyers "in the last ten years there has been a waste of our

natural resources and a loss to American wealth from the sacrifice of copper values alone of fifty millions of dollars."

Several months after the European War had begun, the Special Committee of the Chamber of Commerce of the United States reported that the reasons which it had previously advanced in favor of legislation permitting co-operation among American exporters in foreign trade "will acquire a far greater significance when the nations now at war, whose foreign trade has been curtailed, again enter into active competition for foreign markets. . . . The situation affecting the foreign trade of the United States, created by the unexpected war in Europe, gives the ground for urging immediate action. . . ."

The Federal Trade Commission, in its letter to the Senate, has even more emphatically called for legislative action: "If Americans are to enter the markets of the world on equal terms with their organized competitors and their organized customers; if they are to expand the foreign trade of the United States as they should, and if our small producers and manufacturers are to obtain their rightful share of foreign business on profitable terms, they must be free to unite their efforts. We are in danger of being misled into overconfidence and baseless self-assurance by the imposing totals of our present abnormal foreign trade. A great part of our present foreign trade is purely war business which will end with peace. Another part is enforced buying by parties cut off from former sources of supply, and unfortunately much of this business is being done on terms and by methods that are alienating the purchasers and that insure the diversion of their trade to other countries at the earliest opportunity. Moreover, the end of the war will doubtless see vigorous efforts by Europeans to recapture lost trade. Therefore, earnest thought should be given to measures for the improvement of our foreign business."

The President, in his Annual Message to Congress on December 5, 1916, urged upon the Senate the passage of the Webb Bill in these impressive words: "The thing must be done now because the opportunity is here and may escape us if we hesitate or delay."



## OPPORTUNITIES OPENED TO SMALLER AMERICAN MANUFACTURERS.

So long as co-operation in American export trade is forbidden or even hazardous under our anti-trust laws, so long must efficiency in the American export trade be restricted to those few concerns in each line of industry whose resources of capital enable them each single-handed to maintain separate organizations of their own in foreign markets.

The present predicament of the smaller American manufacturer was described by the Special Committee of the Chamber of Commerce of the United States: "In attempting to secure a foreign market for his goods the smaller American manufacturer who is in a position to produce more goods than his domestic market will consume is faced at the outset by the large expense coupled with delayed returns involved in creating and maintaining a selling agency. In order that he may take advantage of the foreign trade opportunity created by the war, together with the larger firms and corporations already established in foreign trade, he must be permitted to co-operate with his fellows in like lines of production in supporting a common selling agency and consequently in entering into agreements as to distribution, both of expenses and of profits."

Under the terms of the Webb Bill, the smaller American manufacturer will be enabled to co-operate with his fellows upon any basis of joint effort, expenses, or profits for the purpose of maintaining common selling agencies abroad, or carrying on export trade in any other form of co-operation. While the bill will, and should, leave each co-operating American export association free to decide what individuals shall belong to such association, the bill offers complete freedom to every American exporter to enter the export trade either singly or in co-operation with associates mutually congenial, and absolutely insures that neither he, nor the American public, nor any American producer or consumer shall ever be restrained or in any wise prejudiced by reason of such co-operative enterprise.

The Webb Bill promises freedom to American export trade,

opportunity to smaller American manufacturers, and stimulus to our entire American commercial and industrial life; and the prompt passage of the bill by Congress with the modifications above suggested is, therefore, strongly urged.

HENRY R. TOWNE, *Chairman,*
WILLIAM HAMLIN CHILDS,
WALDO H. MARSHALL,
GILBERT H. MONTAGUE,
S. FREDERIC TAYLOR,
*Committee on Federal Trade Commission.*

MSH 21396

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